

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WHIRLPOOL CORPORATION,

Plaintiff,

v.

JJ WHOLESALE GROUP INC. d/b/a
BOB’S FILTERS and FRANCISCO
MANCHOLA,

Defendants.

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Civil Action No. 2:15-cv-1565

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW Plaintiff Whirlpool Corporation (“Whirlpool”), and for its Complaint for Patent Infringement of United States Patent No. 7,000,894 against Defendants JJ Wholesale Group Inc. d/b/a Bob’s Filters and Francisco Manchola, alleges and states as follows:

PARTIES

1. Plaintiff Whirlpool is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 2000 North M-63, Benton Harbor, Michigan.

2. Defendant JJ Wholesale Group Inc. d/b/a Bob’s Filters is a domestic business corporation organized and existing under the laws of the state of New York. It is assigned corporation number DOS ID#: 4731530 by the New York Secretary of State.

3. Defendant Francisco Manchola is a citizen of the state of New York and is the owner of JJ Wholesale Group Inc.

JURISDICTION & VENUE

4. The action arises under the patent laws of the United States, Title 35 United States Code. The jurisdiction of this Court is proper under Title 35 U.S.C. § 271, *et seq.* and Title 28 U.S.C. §§ 1331, 1332, and 1338.

5. In January 2015, Francisco Manchola directly imported into the United States thousands of refrigerator replacement water filters that infringe United States Patent No. 7,000,894, such as OnePurify branded water filters, Model No. RFC0800A.

6. This Court has personal jurisdiction over Francisco Manchola because prior to the formation of JJ Wholesale Group Inc., he offered for sale and/or sold the infringing products, including RFC0800A filters, to customers in the state of Texas, including customers in the Eastern District of Texas, and, therefore, has harmed Whirlpool by offering to sell and/or selling infringing products in this district.

7. On or about March 25, 2015, JJ Wholesale Group Inc. was formed under New York law.

8. In 2015, JJ Wholesale Group Inc. d/b/a Bob's Filters and its owner, Francisco Manchola (hereinafter collectively referred to as "Bob's Filters"), sold thousands of refrigerator replacement water filters that infringe the U.S. Patent No. 7,000,894, including Model No. RFC0800A filters.

9. In 2015, Bob's Filters has total gross sales receipts over \$110,000 from the sales of refrigerator replacement water filters that infringe United States Patent No. 7,000,894, i.e., Model No. RFC0800A filters.

10. In 2015, Bob's Filters offered for sale and/or sold refrigerator replacement water filters that infringe U.S. Patent No. 7,000,894, such as Model No. RFC0800A filters, to residents and citizens of Texas who reside within this district.

11. The Court has personal jurisdiction over JJ Wholesale Group Inc. d/b/a Bob's Filters because it has advertised in Texas, including the Eastern District of Texas, the sale of infringing filters via the internet, and, on information and belief, Bob's Filters has offered for sale and/or sold the infringing products to customers in the state of Texas, including the Eastern District of Texas, thereby harming Whirlpool by offering to sell and/or selling infringing products in this district.

12. Venue is proper in this district pursuant to Title 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because Bob's Filters has committed acts of infringement in this judicial district.

COUNT I
Infringement of U.S. Patent No. 7,000,894

13. Whirlpool restates and incorporates by reference paragraphs 1 through 12 as if fully stated herein.

14. On February 21, 2006, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 7,000,894 ("the '894 patent") entitled "Fluidic Cartridges and End Pieces Thereof." On March 3, 2014, the USPTO issued an ex parte reexamination certificate for the '894 patent. Appended as Exhibit A is a true and correct copy of the '894 patent, inclusive of the ex parte reexamination certificate.

15. Whirlpool is the owner by assignment of the entire right, title and interest in and to the '894 patent, including the right to sue and recover past, present, and future damages for infringement.

16. Whirlpool manufactures products that practice the '894 patent, including Whirlpool "Filter 3" refrigerator filters, and marks such products with the '894 patent.

17. Bob's Filters has been infringing the '894 patent by importing, offering for sale and selling water filters covered by at least claims 1 and 4 of the '894 patent.

18. On July 8, 2015, a replacement water filter was ordered from Bob's Filters through Amazon.com. The order was assigned Order ID 115-8140568-2038616 by Amazon. On July 14, 2015, Bob's Filters fulfilled the order, supplying a "Whirlpool PUR Push Button 4396841 Compatible Water Filter Cartridge" for the cost of \$24.99. A printout showing the packaging of the infringing water filter delivered by Bob's Filters, Water Filter Replacement Cartridge, Model No. RFC0800A, is appended as Exhibit B. Upon receipt, the water filter received, Model No. RFC0800A, was analyzed as against the claims of the '894 patent, and was determined to infringe at least claims 1 and 4 of said patent pursuant to Title 35, U.S.C. § 271(a), *et. seq.*

19. Bob's Filters was advised in writing on or about August 11, 2015 of this infringing activity and, further, was requested to cease and desist in such unlawful conduct.

20. Bob's Filters' importation, offers for sale, and sales of the replacement refrigerator water filters covered by the '894 patent was without permission, authority, or license from Whirlpool. Further acts of infringement, unless enjoined by this Court, will continue to damage Whirlpool and cause irreparable harm to Whirlpool.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Whirlpool respectfully requests the following relief:

a. That the Court enter a judgment that JJ Wholesale Group Inc. d/b/a Bob's Filters and Francisco Manchola have infringed the '894 patent;

- b. That the Court enter a judgment that the '894 patent is not invalid;
- c. That the Court enter a judgment that the '894 patent is enforceable;
- d. That the Court enter a permanent injunction preventing Francisco Manchola and JJ Wholesale Group Inc. d/b/a Bob's Filters, and its respective officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from engaging in infringing activities with respect to the '894 patent;
- e. That the Court award damages for the infringement to which Whirlpool is entitled;
- f. That the Court award interest on the damages; and
- g. For any and all such other relief as this Court may deem appropriate.

Dated : October 1, 2015

Respectfully submitted,

By: /s/ Melissa R. Smith

Melissa R. Smith (TX State Bar No. 24001351)

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WHIRLPOOL CORPORATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, on October 1, 2015.

/s/ Melissa Smith

Melissa Smith